

## **REMARKS**

Claims 1-23 and 49-54 were pending at the time of the Office action. None of the claims has been amended. As such, claims 1-23 and 49-54 remain pending in the application.

### **Telephone Interview**

Applicants express appreciation to the Examiner (Mr. Gray) for the courtesy of the telephone interview held on June 2, 2008, with Applicants' representatives, Ted Rittmaster (Reg. No. 32,933) and Norman Lee (Reg. No. 58,941). In the interview, claim 1 was discussed. In addition, the following references were discussed: Barry ("Barry," U.S. Patent Application Publication No. 2002/0077592) and Adair et al. ("Adair," U.S. Patent No. 6,211,904). More specifically, Applicants' representatives explained that combining Barry and Adair in the manner proposed by the Examiner would render Barry's temperature sensor unsatisfactory for its intended purpose of regulating a heat treatment of an aneurysm.

The Examiner indicated that he understood the above explanation, and it is believed that the explanation overcomes the rejection based on Barry in view of Adair. No agreement was reached on claim 1. It was understood by Applicants' representatives that the Examiner would further review the cited art and possibly conduct a further search.

### **Claim Rejections Under 35 U.S.C. 103**

On page 3 of the Office action, claims 1-11, 14-23 and 49-54 were rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of Adair. On page 5 of the Office action, claims 12-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of Adair in further view of Silver ("Silver," U.S. Patent No. 6,442,413). On page 6 of the Office action, claims 4 and 19-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of Adair.

The above rejections are respectfully traversed.

As previously presented, claim 1 recites:

A method for mitigating restenosis at a trauma site at which a stent is located within the vasculature comprising:

positioning a catheter adjacent the trauma site;

extending a sensor through a lumen in the catheter and through the stent to a position located outside of the catheter and outside of the stent; and

delivering a restenosis mitigating drug to the trauma site through the catheter

wherein the sensor comprises an analyte sensor, physiological parameter sensor, biological parameter sensor, biochemical parameter sensor, or chemical parameter sensor. (Emphasis added.)

As acknowledged by the Examiner on page 4 of the Office action, Barry does not disclose “extending a sensor . . . through the stent to a position located outside of the catheter and outside of the stent[.]” (Emphasis added.)

However, the Examiner states that “Adair et al. teaches that is known to use the step of extending the sensor through the stent to a position located outside of the catheter and outside of the stent.” (Office action, page 4.) The Examiner contends that it would have been obvious to modify Barry per the cited disclosures of Adair.

Applicants respectfully disagree with the above contention.

The proposed combination of Barry and Adair does not render claim 1 *prima facie* obvious because this combination would render the invention of Barry unsatisfactory for its intended purpose of regulating the heat treatment of an aneurysm. (See MPEP § 2143.01.) Barry discloses that the heat treatment is provided by heating liquid 234 that is located inside of balloon 235. (See Paragraph [0088] and FIG. 14.) Heating the liquid induces thermal coagulation of aneurysmal wall 223. (See Paragraph [0089].) For accurately regulating the temperature of the liquid, a feedback control signal is required: this feedback control signal is provided by

temperature sensor 255, which is positioned in the liquid. (See Paragraph [0089] and FIG. 14, which shows temperature sensor 255 as being located inside balloon 235.) Because stent 36 is also located inside balloon 235, the temperature sensor 255 is located inside both stent 35 and catheter 30.

Modifying Barry to require extending temperature sensor 255 through stent 36 to a position located outside of catheter 30 and outside of stent 36 would position the sensor outside of liquid 234. As such, the sensor would be rendered incapable of monitoring the temperature of liquid 234. Further, the sensor would be incapable of providing a feedback control signal for accurately regulating the heating of the liquid. Because modifying the position of the sensor, as proposed by the Examiner, would render the sensor incapable of monitoring the temperature of the liquid and providing an appropriate feedback control signal, it is believed that claim 1 is patentable over Barry in view of Adair.

Further, Applicants respectfully submit that Adair, alone, does not disclose all of the features recited in claim 1. For example, Adair does not disclose or suggest “delivering a restenosis mitigating drug to the trauma site through the catheter[.]” Adair discloses introducing a stent to force open a blockage of a blocked artery. (See Col. 19, lines 9-12.) Adair further discloses using a microendoscope to view the placement of the stent within the artery. (See Col. 19, lines 25-28.) However, Applicants are unable to find in Adair disclosure of “delivering a restenosis mitigating drug to the trauma site through the catheter[.]” as recited in claim 1.

In addition, as previously explained in Applicants’ Amendment of December 18, 2007, Adair does not disclose or suggest “wherein the sensor comprises an analyte sensor, physiological parameter sensor, biological parameter sensor, biochemical parameter sensor, or chemical parameter sensor.” In contrast, Adair discloses using image sensors, such as a microendoscope, in conjunction with a catheter. (See, for example, Col. 1, lines 19-25, and Col. 19, lines 8-9.) As explained in the previous paragraph, the microendoscope is for viewing a placement of a stent within an artery. Because such image sensors are distinguishable from an analyte sensor, physiological parameter sensor, biological parameter sensor, biochemical

parameter sensor, or chemical parameter sensor, it is further believed that Adair, alone, does not disclose certain features of claim 1.

Therefore, it is believed that claim 1 is patentable over the cited art.

Claims 2-23 and 49-51 depend, either directly or indirectly, from claim 1. At least for this reason, it is believed that claims 2-23 and 49-51 are patentable over the cited art.

As previously presented, claim 52 recites;

A method for mitigating restenosis at a site within a vasculature, the method comprising:

positioning a stent at the site;

positioning a catheter adjacent the site;

extending a sensor through the catheter and through the stent to a position located outside of the catheter and outside of the stent, while the stent is at the site; and

delivering infusion medium to the trauma site through the catheter;

wherein the sensor comprises an analyte sensor, physiological parameter sensor, biological parameter sensor, biochemical parameter sensor, or a chemical parameter sensor. (Emphasis added.)

At least for reasons similar to one or more reasons explained with respect to claim 1, it is believed that claim 52 is patentable over the cited art.

Claims 53 and 54 depend directly from claim 52. At least for this reason, it is believed that claims 53 and 54 are patentable over the cited art.

### **Concluding Remarks**

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

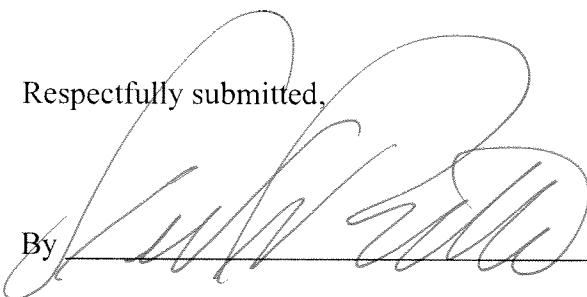
Date

6-17-08

FOLEY & LARDNER LLP  
Customer Number: 23392  
Telephone: (213) 972-4594  
Facsimile: (213) 486-0065

Respectfully submitted,

By

  
Ted R. Rittmaster  
Attorney for Applicant  
Registration No. 32,933